

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH; JODHPUR**

ORIGINAL APPLICATION NO. 86/2010

Date of order: 09.04.2010

CORAM:

**HON'BLE MR. JUSTICE S.M.M. ALAM, JUDICIAL MEMBER
HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER**

Poonam Chand Kataria s/o Sh. Gopi Lal Ji, R/o Plot No. 109, Khasra No. 28, Mahaveer Nagar, Kudi Bhagtasani, Jodhpur. Official Address: Technical Officer 'C' Defence Laboratory, Ratanada, Jodhpur.

...Applicant.

Mr. R.S. Saluja, counsel for applicant.

VERSUS



1. Union of India through the Secretary, Ministry of Defence, Govt. of India, Raksha Bhawan, New Delhi.
2. The DRDO SA TO RM. Directorate to Personnel, A Block, DRDO Bhawan, New Delhi.
3. The Joint Director (Personnel), Govt. of India, Ministry of Defence, DRDO, DRDO Bhawan, New Delhi.
4. The Director, Defence Laboratory, Jodhpur.
5. Dr. N. Kumar, The Director, Defence Laboratory, Jodhpur.

... Respondents.

ORDER

Per Hon'ble Dr. K.S. Sugathan, (AM)

Heard the learned counsel for applicant.

2. The learned counsel for applicant submitted that this inquiry is being initiated at the instance of Director of the

Defence Laboratory because he made a complaint about the condition of the National Flag on the office building of the Director. The applicant has made a representation that the inquiry officer will not be objective as he is directly reporting to the Director and requested for the appointment of inquiry officer from any other organisation within the DRDO (A/10 & A/13). Further submission made by the learned counsel is that he has not been allowed to engage a defence assistant of his choice. It is further contended that without taking into account his representation on the aforesaid matters the respondents are hastily proceeding with the inquiry. He has, therefore prayed for quashing of the inquiry; allowing him to engage a defence assistant and for a direction that respondent no.5 shall not be associated with the inquiry. By way of interim order the applicant has sought the stay of the disciplinary proceedings.

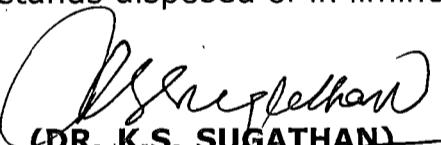
3. We have perused the record and also the relevant rules. It is seen that a delinquent Govt. servant is entitled to engage a defence assistant as per Rule 14(8) of the CCS (CCA) Rules. Further if the delinquent Government servant makes a representation about the objectivity of the inquiry officer such a representation has also to be considered by the respondents and a decision taken thereon. In view of the aforesaid Rule position, we are of the considered opinion that the respondents should first take a decision about the representation for change of inquiry officer and also give reasonable opportunity to the applicant to engage a defence assistant of his choice. We,

therefore considered it appropriate to dispose of this O.A. at the admission stage with the following direction to the respondents:-

- i) The respondents shall take a decision on the representation of the applicant for change of the inquiry officer.
- ii) The respondents shall provide reasonable time and opportunity to the applicant to engage a defence assistant of his choice in accordance with Rule 14 (8) of CCS (CCA) Rules.

4. Until such time the aforesaid directions are complied with, the inquiry proceedings are directed to be kept in abeyance. It is also made clear that as soon as the aforesaid directions are complied with the respondents will be at liberty to proceed with the inquiry.

With the aforesaid observation and direction the O.A. stands disposed of in limine.



(DR. K.S. SUGATHAN)
ADMINISTRATIVE MEMBER


(JUSTICE S.M.M. ALAM)
JUDICIAL MEMBER

SK

~~Received~~
12/4/10
for RS 5/-
RS amount received
~~12/4/10~~

Memorandum
dated 21/2/10
I - 315/10

दिनांक 17/2/10 के आदेशानुसार
मेरी उत्तरस्थिति के दिनांक 10-2-16
को घाग-III का III नं. किए गए।

अमुग्म अधिकारी
केन्द्रीय प्रशासनिक अधिकरण
जोधपुर ज्यावंगीठ, जोधपुर